ENTERED

June 07, 2019 David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS CORPUS CHRISTI DIVISION

BRIAN	KOPATZ,	§	
		§	
	Plaintiff,	§	
VS.		§	CIVIL NO. 2:18-CV-232
		§	
DIRECT	ГОR TDCJ-CID,	§	
		§	
	Defendant.	§	

ORDER

The Court is in receipt of Respondent Lorie Davis' ("Davis") Answer with Brief in Support requesting dismissal due to Plaintiff's claims being time-barred, Dkt. No. 34; Plaintiff Brian Kopatz's ("Kopatz") response to the motion to dismiss, Dkt. No. 66; the Magistrate Judge's Memorandum and Recommendation ("M&R"), Dkt. No. 69; and Plaintiff's objections to the M&R, Dkt. Nos. 70, 71, 72 and 73.

After independently reviewing the record and applicable law, the Court ADOPTS the M&R, Dkt. No. 69,1 and DENIES Respondent's motion to dismiss as time-barred, Dkt. No. 34. The Court DISMISSES the above-captioned case WITHOUT PREJUDICE because Kopatz's claims are still pending at the Texas Court of Criminal Appeals and are thus unexhausted.² The Court DENIES Petitioner a Certificate of Appealability.

¹ Magistrate Judge Janice Ellington recommends that a number of motions filed by Petitioner be administratively terminated. Dkt. No. 68. The Court hereby **DIRECTS** the Clerk of Court to administratively terminate the following motions: motion for a bench warrant, Dkt. No. 63; motion to obtain "Exhibit N", Dkt. No. 65; a second motion for a bench warrant, Dkt. No. 66; motion for discovery and an evidentiary hearing, Dkt. No. 67; and a motion for a preliminary injunction, Dkt. No. 68.

² The Texas Court of Criminal Appeals has not ruled on any of Petitioner's pending applications. *See* http://search.txcourts.gov/Case.aspx?cn=WR-87,997-02&coa=coscca (last viewed June 6, 2019).

Final judgment will be entered separately.

SIGNED this 7th day of June 2019.

Hilda Tagle

Senior United States District Judge